



DOCUMENT NO. IZ-200308-001 (SAMS04-08001)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : KELLEY JONES
Serial No. : 10/693,089
Filed : October 24, 2003
For : POLISH PAD TOOL
Group No. : 3652
Examiner : Michael S. Lowe

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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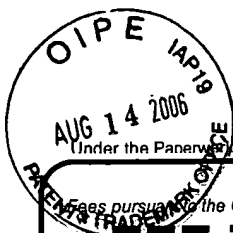
Kathleen Porter

Date:

Aug 7, 2006

William A. Munck
William A. Munck
Reg. No. 39,308

P.O. Box 802432
Dallas, Texas 75380
Phone: (972) 628-3600
Fax: (972) 628-3616
E-mail: wmunck@munckbutrus.com



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FEE TRANSMITTAL

For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	10/693,089
Filing Date	October 24, 2003
First Named Inventor	Kelley Jones
Examiner Name	Michael S. Lowe
Art Unit	3652
Attorney Docket No.	IZ-200308-001 (SAMS04-08001)

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 50-0208 Deposit Account Name: Munck Butrus P.C.

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
_____ - 20 or HP = _____ x _____ = _____						
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
_____ - 3 or HP = _____ x _____ = _____						
HP = highest number of independent claims paid for, if greater than 3						

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Appeal Brief

Fees Paid (\$)

500.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	39,308	Telephone	972-628-3600
Name (Print/Type)	William A. Munck	Date	Aug 7, 2006		

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DOCKET NO. IZ-200308-001 (SAMS04-08001)

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MAIL STOP APPEAL BRIEF - PATENTS

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APPEAL BRIEF

The Appellant has appealed to the Board of Patent Appeals and Interferences from the decision of the Examiner dated February 28, 2006, finally rejecting Claims 1-20. The Appellant filed a Notice of Appeal on May 30, 2006, which was received by the U.S. Patent and Trademark Office on June 5, 2006. The Appellant respectfully submits this brief on appeal with the appropriate statutory fee.

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REAL PARTY IN INTEREST

This application is currently owned by Samsung Austin Semiconductor, L.P., as indicated by an assignment recorded on October 24, 2003, in the Assignment Records of the U.S. Patent and Trademark Office at Reel 014637, Frame 0968.

RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this pending appeal.

STATUS OF CLAIMS

Claims 1-20 have been rejected pursuant to a final Office Action dated February 28, 2006. Claims 1-20 are presented for appeal. A copy of all pending claims is provided in Appendix A hereto.

STATUS OF AMENDMENTS

Amendments to the claims were submitted in an Amendment Under 37 C.F.R. § 1.116 filed on April 28, 2006. Per an Advisory Action mailed May 16, 2006, the amendments were not entered as adding limitations that would require further search and/or consideration.

SUMMARY OF CLAIMED SUBJECT MATTER

Regarding Claim 1, a tool for lifting a pad includes a non-pivoted jaw structure with an upper jaw portion and a lower jaw portion. *Application: page 5, lines 10-14; Fig. 3, ref. 18.* The lower jaw portion has a sloped upper surface for slidably receiving a portion of the pad. *Application: page 6, lines 4-9; Fig. 3, ref. 46.* The tool also includes a first member pivotally coupled to the non-pivoted jaw structure. *Application: page 4, lines 24-25; lines 27-28; Fig. 3, ref. 16.* The tool further includes a second member pivotally coupled to the first member. *Application: page 6, lines 10-13; Fig. 3, refs. 24, 25, 54.* The second member has a surface opposite to the sloped surface of the lower jaw portion and is operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards. *Application: page 6, lines 16-21; Fig. 3, refs. 54, 36, 46.*

Regarding Claim 8, a chemical mechanical polishing pad removal tool includes a non-pivoted jaw structure with an upper jaw portion and a lower jaw portion. *Application: page 5, lines 10-14; Fig. 3, ref. 18.* The upper jaw portion has an arcuate lower surface for contacting portions of an upper surface of the chemical mechanical polishing pad. *Application: page 5, lines 14-17; Fig. 3, ref. 30.* The lower jaw portion having a sloped upper surface spaced below and opposite to the arcuate lower surface for slidably receiving a portion of the pad. *Application: page 6, lines 1-9; Fig. 3, ref. 46.* The tool also includes a first member pivotally coupled to the non-pivoted jaw structure. *Application: page 4, lines 24-25; lines 27-28; Fig. 3, ref. 16.* The tool further includes a second member pivotally coupled to the first member. *Application: page 6, lines 10-13; Fig. 3, refs. 24, 25, 54.* The second member has a surface projecting below the arcuate lower surface of the upper jaw

portion that is opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards. *Application: page 6, lines 16-21; Fig. 3, refs. 54, 36, 46.*

Regarding Claim 15, a chemical mechanical polishing pad removal tool includes a non-pivoted jaw structure with an upper jaw portion and a lower jaw portion. *Application: page 5, lines 10-14; Fig. 3, ref. 18.* The upper jaw portion has an arcuate lower surface for contacting portions of an upper surface of the chemical mechanical polishing pad. *Application: page 5, lines 14-17; Fig. 3, ref. 30.* The lower jaw portion having a sloped upper surface spaced below and opposite to the arcuate lower surface for slidably receiving a portion of the pad and terminates at a lower end in a rounded end. *Application: page 6, lines 1-9; Fig. 3, ref. 46.* The tool also includes a handle pivotally coupled to the non-pivoted jaw structure. *Application: page 4, lines 24-25; lines 27-28; Fig. 3, ref. 16.* The tool further includes a member pivotally coupled to the handle. *Application: page 6, lines 10-13; Fig. 3, refs. 24, 25, 54.* The member has a textured surface projecting below the arcuate lower surface of the upper jaw portion that is opposite to the sloped surface of the lower jaw portion, where the textured surface is operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards. *Application: page 6, lines 16-21; Fig. 3, refs. 54, 36, 46.*

GROUND OF REJECTION

1. Claims 1 and 4-7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0121792 to Worthington ("*Worthington*").

1. Claims 1-5, 7-11 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,086,126 to Krauss ("*Krauss*").

2. Claims 2, 3 and 8-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Worthington* in view of *Krauss*.

ARGUMENT

I. GROUND OF REJECTION #1 (§ 102 REJECTION)

The rejection of Claims 1 and 4-7 under 35 U.S.C. § 102(b) is improper and should be withdrawn.

A. OVERVIEW

Claims 1 and 4-7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0121792 to Worthington ("*Worthington*").

B. STANDARD

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in

the claims. *MPEP* § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. *MPEP* § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

C. THE WORTHINGTON REFERENCE

From the Abstract of the Disclosure:

A hand tool for gripping and moving building materials includes a linkage having a grip at a first end. A plate having a gripping face is pivotally attached to a second end of the linkage. A generally U-shaped bracket is pivotally attached to the linkage adjacent to the plate and extends beyond the second end of the linkage so that a gripping face thereof is disposed generally opposite the plate gripping face. Upon inserting a building material between the plate and bracket gripping faces and lifting the linkage upwardly, the plate and bracket pivot so that the gripping faces firmly contact and grip opposite sides of the building material for transport.

D. CLAIM 1

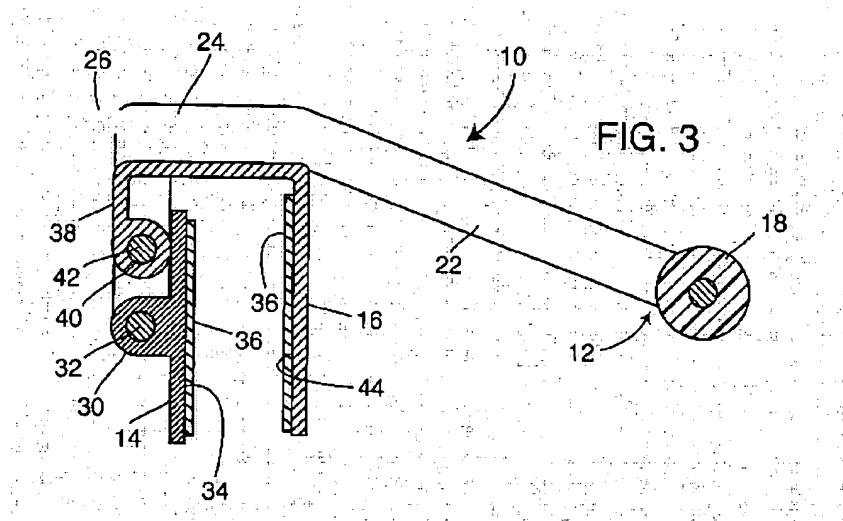
Claim 1 recites a tool for lifting a pad, including:

a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the lower jaw portion having a sloped upper surface for slidably receiving a portion of the pad;

a first member pivotally coupled to the non-pivoted jaw structure; and

a second member pivotally coupled to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

In finally rejecting Claim 1, the Office Action mailed February 28, 2006, asserts that *Worthington* teaches a tool 10 with a non-pivoted jaw structure 16 having a lower jaw portion 16(36) with a sloped upper surface. Figure 3 of *Worthington*, in which may be seen the elements of the disclosure that the Office Action relies upon, is reproduced here:



The Office Action asserts that the claim term *sloped* is a “relative term, also zero or 90 degree slope is still a slope.” *Office Action mailed February 28, 2006, page 2*. The Appellant submits that the Office Action fails to give the term *sloped* its plain meaning, as required by the MPEP § 2111.01(I). Merriam-Webster Online Dictionary, 10th Edition, defines *slope* as “to take an oblique course” or “to lie or fall in a slant.” It further defines *oblique* as “neither perpendicular nor parallel” and *slant* as “to turn or incline from a right line or a level” and *incline* as “to deviate from a line, direction, or course; specifically : to deviate from the vertical or horizontal.”

As such, the plain meaning of *sloped* is not at zero or 90 degrees, as asserted in the Office Action, but rather not perpendicular, not level, neither vertical nor horizontal. Indeed, the Office

Action itself reinforces this argument on page 7, where it points out that a common term for vertical faces is *sheer slope*. That is, in common usage the term *slope*, by itself, does not connote vertical—instead, it must be modified by the term *sheer* to become a term for vertical faces.

The Office Action further argues on page 7 that “the feature on which the Appellant relies (i.e., the slope being a non-zero slope) is not recited in the rejected claim.” On the contrary, the plain meaning of the claim term *sloped* is an angle other than horizontal or vertical. The claim does, in fact, recite a lower jaw portion having an upper surface that is “neither perpendicular nor parallel.”

For these reasons, the Office Action fails to establish that *Worthington* anticipates all elements recited in Claim 1. As a result, Claim 1 is patentable over *Worthington*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 1 be withdrawn and that Claim 1 be passed to allowance.

E. CLAIM 4

Claim 4 recites the tool of Claim 1, wherein the non-pivoted jaw structure comprises a first half coupled to a second half.

As Claim 4 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Worthington* apply here as well, and are incorporated herein by reference.

Without elaboration, the Office Action asserts that *Worthington* teaches “the jaw 16 comprises a first half coupled to a second half.” The Appellant submits that the Office Action

mischaracterizes the teaching of *Worthington*. It is clear from an examination of the disclosure of *Worthington*, particularly Figure 1, that bracket 16 is a unitary, U-shaped bracket.

For these reasons, the Office Action fails to establish that *Worthington* anticipates all elements recited in Claim 4. As a result, Claim 4 is patentable over *Worthington*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 4 be withdrawn and that Claim 4 be passed to allowance.

F. CLAIM 5

Claim 5 recites the tool of Claim 1, wherein the lower jaw portion comprises a substantially flat lower surface.

As Claim 5 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Worthington* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Worthington* teaches a tool including a non-pivoted jaw structure having a lower jaw portion with a substantially flat lower surface in the context of Claim 1.

For these reasons, the Office Action fails to establish that *Worthington* anticipates all elements recited in Claim 5. As a result, Claim 5 is patentable over *Worthington*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 5 be withdrawn and that Claim 5 be passed to allowance.

G. CLAIM 6

Claim 6 recites the tool of Claim 1, wherein the first member comprises a cutout in which a portion of the second member is pivotally positioned.

As Claim 6 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Worthington* apply here as well, and are incorporated herein by reference.

The Office Action asserts that support arms 20 and 22 of *Worthington* teach a first member pivotally coupled to a non-pivoted jaw structure, comprising a cutout in which a portion of a second member is pivotally positioned. The support arms 20 and 22 are individual elements that bolt onto opposite sides of grip 18, bracket 16 and plate 14. The Office Action fails to give the term *cutout* its plain meaning. Merriam-Webster Online Dictionary, 10th Edition, defines *cutout* as “something cut out or off from something else; *also* : the space or hole left after cutting.” The Appellant submits that support arms 20 and 22, bolted onto the sides of three other elements, do not teach a “space or hole left after cutting,” into which a portion of another member may be pivotally positioned, as recited in Claim 6.

For these reasons, the Office Action fails to establish that *Worthington* anticipates all elements recited in Claim 6. As a result, Claim 6 is patentable over *Worthington*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 6 be withdrawn and that Claim 6 be passed to allowance.

H. CLAIM 7

Claim 7 recites the tool of Claim 1, wherein the surface of the second member comprises a textured surface.

As Claim 7 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Worthington* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Worthington* teaches a tool including a second member having a surface comprising a textured surface in the context of Claim 1.

For these reasons, the Office Action fails to establish that *Worthington* anticipates all elements recited in Claim 7. As a result, Claim 7 is patentable over *Worthington*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 7 be withdrawn and that Claim 7 be passed to allowance.

II. GROUND OF REJECTION #2 (§ 102 REJECTION)

The rejection of Claims 1-5, 7-11 and 14 under 35 U.S.C. § 102(b) is improper and should be withdrawn.

A. OVERVIEW

Claims 1-5, 7-11 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,086,126 to Krauss ("*Krauss*").

B. STANDARD

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *MPEP § 2131; In re Bond, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)*. Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. *MPEP § 2131; In re Donohue, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)*.

C. THE KRAUSS REFERENCE

The *Krauss* reference describes a gripper 10 that includes side plates 16 and 18 having a cutout gripping slot 20 defined by edges 20a and 20b, which are rounded and enlarged toward the mouth of the cutout. *Krauss: col. 3, line 61, through col. 4, line4; Fig. 3*. A fixing pin 30 passes between the plates 16 and 18, and a torsion spring 32 is mounted on the fixing pin 30. *Krauss: col. 4, lines 30-34; Fig. 3*. A clamping element 26 is mounted movably to a pivot pin 28, which also passes between the plates 16 and 18. *Krauss: col. 4, lines 5-10; Fig. 3*. End 32a of the torsion spring 32 rests against the side of the clamping element 26 and tensions the clamping element 26 in the direction of the opening of slot 20. *Krauss: col. 4, lines 34-36 and 44-50; Fig. 3*. Thus, both the torsion spring 32 and the clamping element 26 are pivotally coupled to the side plates 16 and 18 of the gripper 10.

D. CLAIM 1

Claim 1 recites a tool for lifting a pad, including:

a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the lower jaw portion having a sloped upper surface for slidably receiving a portion of the pad;

a first member pivotally coupled to the non-pivoted jaw structure; and

a second member pivotally coupled to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

In finally rejecting Claim 1, the Office Action mailed February 28, 2006, asserts that cutout gripping slot 20 of side plates 16 and 18 describes a non-pivoted jaw structure, torsion spring 32 describes a first member pivotally coupled to the side plates 16 and 18, and clamping element 26 describes a second member pivotally coupled “(indirectly)” to the torsion spring. The Office Action does not clarify what an “indirect” pivotal coupling is.

Assuming, without admitting, that the side plates 16 and 18 of *Krauss* teach a non-pivoted jaw structure, the Appellant submits that the actual teaching of *Krauss* is of first and second members (torsion spring 32 and clamping element 26, respectively) that are both pivotally coupled to the purported non-pivoted jaw structure. This is in decided contrast to the recitation in Claim 1 of a second member that is pivotally coupled to a first member, which in turn is pivotally coupled to a non-pivoted jaw structure.

For these reasons, the Office Action fails to establish that *Krauss* anticipates all elements recited in Claim 1. As a result, Claim 1 is patentable over *Krauss*. Accordingly, the Appellant

respectfully requests that the final rejection of Claim 1 be withdrawn and that Claim 1 be passed to allowance.

E. CLAIM 2

Claim 2 recites the tool of Claim 1, wherein the upper jaw portion has an arcuate lower surface.

As Claim 2 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Krauss* teaches a tool including a non-pivoted jaw structure with an upper jaw portion having an arcuate lower surface in the context of Claim 1.

For these reasons, the Examiner fails to establish that *Krauss* anticipates all elements recited in Claim 2. As a result, Claim 2 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 2 be withdrawn and that Claim 2 be passed to allowance.

F. CLAIM 3

Claim 3 recites the tool of Claim 2, wherein the non-pivoted jaw structure is arcuate.

As Claim 3 depends from Claim 2, the arguments above with regard to the patentability of Claim 2 over *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Krauss* teaches an arcuate non-pivoted jaw structure in the context of Claim 2.

For these reasons, the Examiner fails to establish that *Krauss* anticipates all elements recited in Claim 3. As a result, Claim 3 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 3 be withdrawn and that Claim 3 be passed to allowance.

G. CLAIM 4

Claim 4 recites the tool of Claim 1, wherein the non-pivoted jaw structure comprises a first half and a second half.

As Claim 4 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action asserts that “the jaw 20 comprises a first half 20a coupled to a second half 20b.” *Office Action mailed February 28, 2006, page 3*. In fact, *Krauss* describes a cutout in a side plate 18 that defines a gripping slot 20 having edges 20a and 20b. Reference characters 20a and 20b thus identify two regions of the edge of side plate 18, rather than “a first half coupled to a second half” as recited in Claim 4.

For these reasons, the Examiner fails to establish that *Krauss* anticipates all elements recited in Claim 4. As a result, Claim 4 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 4 be withdrawn and that Claim 4 be passed to allowance.

H. CLAIM 5

Claim 5 recites the tool of Claim 1, wherein the lower jaw portion comprises a substantially flat lower surface.

As Claim 5 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Krauss* teaches a tool including a non-pivoted jaw structure with a lower jaw portion having a substantially flat lower surface in the context of Claim 1.

For these reasons, the Examiner fails to establish that *Krauss* anticipates all elements recited in Claim 5. As a result, Claim 5 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 5 be withdrawn and that Claim 5 be passed to allowance.

I. CLAIM 7

Claim 7 recites the tool of Claim 1, wherein the surface of the second member comprises a textured surface.

As Claim 7 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Krauss* teaches a tool including a second member having a surface comprising a textured surface in the context of Claim 1.

For these reasons, the Office Action fails to establish that *Krauss* anticipates all elements recited in Claim 7. As a result, Claim 7 is patentable over *Krauss*. Accordingly, the Appellant

respectfully requests that the final rejection of Claim 7 be withdrawn and that Claim 7 be passed to allowance.

J. CLAIM 8

Claim 8 recites a chemical mechanical polishing pad removal tool, comprising:

a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the upper jaw portion having an arcuate lower surface for contacting portions of an upper surface of the chemical mechanical polishing pad, the lower jaw portion having a sloped upper surface spaced below and opposite to the arcuate lower surface for slidably receiving a portion of the pad;

a first member pivotally coupled to the non-pivoted jaw structure; and

a second member pivotally coupled to the first member, the second member having a surface projecting below the arcuate lower surface of the upper jaw portion and being opposite to the sloped surface of the lower jaw portion, the second surface being operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

In finally rejecting Claim 8, the Office Action mailed February 28, 2006, asserts that cutout gripping slot 20 of side plates 16 and 18 describes a non-pivoted jaw structure, torsion spring 32 describes a first member pivotally coupled to the side plates 16 and 18, and clamping element 26 describes a second member pivotally coupled “(indirectly)” to the torsion spring. The Office Action does not clarify what an “indirect” pivotal coupling is.

Assuming, without admitting, that the side plates 16 and 18 of *Krauss* teach a non-pivoted jaw structure, the Appellant submits that the actual teaching of *Krauss* is of first and second members (torsion spring 32 and clamping element 26, respectively) that are both pivotally coupled to the purported non-pivoted jaw structure. This is in contrast to the recitation in Claim 8 of a second

member that is pivotally coupled to a first member, which in turn is pivotally coupled to a non-pivoted jaw structure.

For these reasons, the Office Action fails to establish that *Krauss* anticipates all elements recited in Claim 8. As a result, Claim 8 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 8 be withdrawn and that Claim 8 be passed to allowance.

K. CLAIM 9

Claim 9 recites the tool of Claim 8, wherein the non-pivoted jaw structure is arcuate.

As Claim 9 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Krauss* teaches an arcuate non-pivoted jaw structure in the context of Claim 8.

For these reasons, the Examiner fails to establish that *Krauss* anticipates all elements recited in Claim 9. As a result, Claim 9 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 9 be withdrawn and that Claim 9 be passed to allowance.

L. CLAIM 10

Claim 10 recites the tool of Claim 8, wherein the non-pivoted jaw structure comprises a first half and a second half.

As Claim 10 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action asserts that “the jaw 20 comprises a first half 20a coupled to a second half 20b.” *Office Action mailed February 28, 2006, page 3*. In fact, *Krauss* describes a cutout in a side plate 18 that defines a gripping slot 20 having edges 20a and 20b. Reference characters 20a and 20b thus identify two regions of the edge of side plate 18, rather than “a first half coupled to a second half” as recited in Claim 10.

For these reasons, the Examiner fails to establish that *Krauss* anticipates all elements recited in Claim 10. As a result, Claim 10 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 10 be withdrawn and that Claim 10 be passed to allowance.

M. CLAIM 11

Claim 11 recites the tool of Claim 8, wherein the lower jaw portion comprises a substantially flat lower surface.

As Claim 11 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Krauss* teaches a tool including a non-pivoted jaw structure with a lower jaw portion having a substantially flat lower surface in the context of Claim 8.

For these reasons, the Examiner fails to establish that *Krauss* anticipates all elements recited in Claim 11. As a result, Claim 11 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 11 be withdrawn and that Claim 11 be passed to allowance.

N. CLAIM 14

Claim 14 recites the tool of Claim 8, wherein the surface of the second member comprises a textured surface.

As Claim 14 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Krauss* teaches a tool including a second member having a surface comprising a textured surface in the context of Claim 8.

For these reasons, the Office Action fails to establish that *Krauss* anticipates all elements recited in Claim 14. As a result, Claim 14 is patentable over *Krauss*. Accordingly, the Appellant respectfully requests that the final rejection of Claim 14 be withdrawn and that Claim 14 be passed to allowance.

III. GROUND OF REJECTION #3 (§ 103 REJECTION)

The rejection of Claims 2, 3 and 8-20 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

A. OVERVIEW

Claims 2, 3 and 8-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Worthington* in view of *Krauss*.

B. STANDARD

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. *MPEP* § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. *MPEP* § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the Applicant to produce evidence of nonobviousness. *MPEP* § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the Applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781,

783, 26 U.S.P.Q.2d 1529, 1531 (*Fed. Cir. 1993*). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on the Applicant's disclosure. *MPEP* § 2142.

In order to establish obviousness by combining references there must be some teaching or suggestion in the prior art to combine the references. *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 957, 43 U.S.P.Q.2d 1294, 1297 (*Fed.Cir. 1997*) ("It is insufficient to establish obviousness that the separate elements of an invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the references."); *In re Rouffet*, 149 F.3d 1350, 1355-56, 47 U.S.P.Q.2d 1453, 1456 (*Fed.Cir. 1998*) ("When a rejection depends on a combination of prior art references, there must be some teaching, or motivation to combine the references.").

Evidence of a motivation to combine prior art references must be clear and particular if the trap of "hindsight" is to be avoided. *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614 (*Fed. Cir. 1999*) (Evidence of a suggestion, teaching or motivation to combine prior art references must be "clear and particular." "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'"). *In re Rouffett*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d

1453, 1457 (*Fed.Cir. 1998*) (“[R]ejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be ‘an illogical and inappropriate process by which to determine patentability.’”)

C. CLAIM 2

Claim 2 recites the tool of Claim 1, wherein the upper jaw portion has an arcuate lower surface.

As Claim 2 depends from Claim 1, the arguments above with regard to the patentability of Claim 1 over *Worthington* apply here as well, and are incorporated herein by reference.

The Office Action acknowledges that *Worthington* does not teach an upper jaw portion having an arcuate lower surface, but asserts that *Krauss* describes such a limitation. The Appellant submits that nothing in *Krauss* teaches a tool including a non-pivoted jaw structure with an upper jaw portion having an arcuate lower surface in the context of Claim 1.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant’s invention recited in Claim 2. As a result, Claim 2 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination . Accordingly, the Appellant respectfully requests that the final rejection of Claim 2 under § 103 be withdrawn and that Claim 2 be passed to allowance.

D. CLAIM 3

Claim 3 recites the tool of Claim 2, wherein the non-pivoted jaw structure is arcuate.

As Claim 3 depends from Claim 2, the arguments above with regard to the patentability of Claim 2 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Worthington*, *Krauss* or the combination of *Worthington* and *Krauss* teaches an arcuate non-pivoted jaw structure in the context of Claim 2.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 3. As a result, Claim 3 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 3 under § 103 be withdrawn and that Claim 3 be passed to allowance.

E. CLAIM 8

Claim 8 recites a chemical mechanical polishing pad removal tool, comprising:

- a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the upper jaw portion having an arcuate lower surface for contacting portions of an upper surface of the chemical mechanical polishing pad, the lower jaw portion having a sloped upper surface spaced below and opposite to the arcuate lower surface for slidably receiving a portion of the pad;
- a first member pivotally coupled to the non-pivoted jaw structure; and
- a second member pivotally coupled to the first member, the second member having a surface projecting below the arcuate lower surface of the upper jaw portion and being opposite to the sloped surface of the lower jaw

portion, the second surface being operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Claim 8 recites limitations analogous to the limitations of Claim 1. As such, the arguments above with regard to the patentability of Claim 1 over *Worthington* apply here as well, and are incorporated herein by reference.

The Office Action acknowledges that *Worthington* does not teach an upper jaw portion having an arcuate lower surface, but asserts that *Krauss* describes such a limitation. The Appellant submits that nothing in *Krauss* teaches a tool including a non-pivoted jaw structure with an upper jaw portion having an arcuate lower surface in the context of Claim 8.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 8. As a result, Claim 8 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 8 under § 103 be withdrawn and that Claim 8 be passed to allowance.

F. CLAIM 9

Claim 9 recites the tool of Claim 8, wherein the non-pivoted jaw structure is arcuate.

As Claim 9 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action acknowledges that *Worthington* does not teach an upper jaw portion having an arcuate non-pivoted jaw structure, but asserts that *Krauss* describes such a limitation. The Appellant submits that nothing in *Krauss* teaches an arcuate non-pivoted jaw structure in the context of Claim 8.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 9. As a result, Claim 9 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 9 under § 103 be withdrawn and that Claim 9 be passed to allowance.

G. CLAIM 10

Claim 10 recites the tool of Claim 8, wherein the non-pivoted jaw structure comprises a first half and a second half.

As Claim 10 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

Without elaboration, the Office Action asserts that *Worthington* teaches "the jaw 16 comprises a first half coupled to a second half." The Appellant submits that the Office Action mischaracterizes the teaching of *Worthington*. It is clear from an examination of the disclosure of *Worthington*, particularly Figure 1, that bracket 16 is a unitary, U-shaped bracket.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 10. As a result, Claim 10 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 10 under § 103 be withdrawn and that Claim 10 be passed to allowance.

H. CLAIM 11

Claim 11 recites the tool of Claim 8, wherein the lower jaw portion comprises a substantially flat lower surface.

As Claim 11 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Worthington*, *Krauss* or the combination of *Worthington* and *Krauss* teaches a tool including a non-pivoted jaw structure with a lower jaw portion having a substantially flat lower surface in the context of Claim 8.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 11. As a result, Claim 11 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 11 under § 103 be withdrawn and that Claim 11 be passed to allowance.

I. CLAIM 12

Claim 12 recites the tool of Claim 8, wherein the first member comprises a cutout in which a portion of the second member is pivotally positioned.

As Claim 12 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action asserts that support arms 20 and 22 of *Worthington* teach a first member pivotally coupled to a non-pivoted jaw structure, comprising a cutout in which a portion of a second member is pivotally positioned. The support arms 20 and 22 are individual elements that bolt onto opposite sides of grip 18, bracket 16 and plate 14. The Office Action fails to give the term *cutout* its plain meaning. Merriam-Webster Online Dictionary, 10th Edition, defines *cutout* as “something cut out or off from something else; *also* : the space or hole left after cutting.” The Appellant submits that support arms 20 and 22, bolted onto the sides of three other elements, do not teach a “space or hole left after cutting,” into which a portion of another member may be pivotally positioned, as recited in Claim 12.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant’s invention recited in Claim 12. As a result, Claim 12 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken

singly or in combination . Accordingly, the Appellant respectfully requests that the final rejection of Claim 12 under § 103 be withdrawn and that Claim 12 be passed to allowance.

J. CLAIM 13

Claim 13 recites the tool of Claim 12, comprising a cap coupled to the first member to laterally enclose the cutout.

As Claim 13 depends from Claim 12, the arguments above with regard to the patentability of Claim 12 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action asserts that *Worthington* “teaches a cap 32 coupled to the first member to laterally enclose the cutout.” *Office Action mailed February 28, 2006, page 6*. The Appellant submits that the Office Action mischaracterizes the teaching of *Worthington*. As argued with regard to Claim 12, support arms 20 and 22 are individual elements that bolt onto opposite sides of grip 18, bracket 16 and plate 14. Reference character 32 indicates the bolt that holds the support arms 20 and 22 onto plate 14 and form a pivot for plate 14. As such, *Worthington* does not teach a cap coupled to a first member to laterally enclose a cutout, as recited in Claim 13.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant’s invention recited in Claim 13. As a result, Claim 13 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken

singly or in combination . Accordingly, the Appellant respectfully requests that the final rejection of Claim 13 under § 103 be withdrawn and that Claim 13 be passed to allowance.

K. CLAIM 14

Claim 14 recites the tool of Claim 8, wherein the surface of the second member comprises a textured surface.

As Claim 14 depends from Claim 8, the arguments above with regard to the patentability of Claim 8 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Worthington* teaches a tool including a second member having a surface comprising a textured surface in the context of Claim 8.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 14. As a result, Claim 14 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination . Accordingly, the Appellant respectfully requests that the final rejection of Claim 14 under § 103 be withdrawn and that Claim 14 be passed to allowance.

L. CLAIM 15

Claim 15 recites a chemical mechanical polishing pad removal tool, comprising:

a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the upper jaw portion having an arcuate lower surface for contacting

portions of an upper surface of the chemical mechanical polishing pad, the lower jaw portion having a sloped upper surface spaced below and opposite to the arcuate lower surface for slidably receiving a portion of the pad, the sloped upper surface terminating at a lower end in a rounded end;
a handle pivotally coupled to the non-pivoted jaw structure; and
a member pivotally coupled to the handle, the member having a textured surface projecting below the arcuate lower surface of the upper jaw portion and being opposite to the sloped surface of the lower jaw portion, the textured surface being operable for clamping the portion of the pad against the sloped surface when the handle is pivoted upwards.

Claim 15 recites limitations analogous to the limitations of Claim 1. As such, the arguments above with regard to the patentability of Claim 1 over *Worthington* apply here as well, and are incorporated herein by reference.

The Office Action acknowledges that *Worthington* does not teach an upper jaw portion having an arcuate lower surface, but asserts that *Krauss* describes such a limitation. The Appellant submits that nothing in *Krauss* teaches a tool including a non-pivoted jaw structure with an upper jaw portion having an arcuate lower surface in the context of Claim 15.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 15. As a result, Claim 15 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 15 under § 103 be withdrawn and that Claim 15 be passed to allowance.

M. CLAIM 16

Claim 16 recites the tool of Claim 15, wherein the non-pivoted jaw structure is arcuate.

As Claim 16 depends from Claim 15, the arguments above with regard to the patentability of Claim 15 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action acknowledges that *Worthington* does not teach an upper jaw portion having an arcuate non-pivoted jaw structure, but asserts that *Krauss* describes such a limitation. The Appellant submits that nothing in *Krauss* teaches an arcuate non-pivoted jaw structure in the context of Claim 15.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 16. As a result, Claim 16 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 16 under § 103 be withdrawn and that Claim 16 be passed to allowance.

N. **CLAIM 17**

Claim 17 recites the tool of Claim 15, wherein the non-pivoted jaw structure comprises a first half and a second half.

As Claim 17 depends from Claim 15, the arguments above with regard to the patentability of Claim 15 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

Without elaboration, the Office Action asserts that *Worthington* teaches “the jaw 16 comprises a first half coupled to a second half.” The Appellant submits that the Office Action mischaracterizes the teaching of *Worthington*. It is clear from an examination of the disclosure of *Worthington*, particularly Figure 1, that bracket 16 is a unitary, U-shaped bracket.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant’s invention recited in Claim 17. As a result, Claim 17 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination . Accordingly, the Appellant respectfully requests that the final rejection of Claim 17 under § 103 be withdrawn and that Claim 17 be passed to allowance.

O. CLAIM 18

Claim 18 recites the tool of Claim 15, wherein the lower jaw portion comprises a substantially flat lower surface.

As Claim 18 depends from Claim 15, the arguments above with regard to the patentability of Claim 15 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

Furthermore, nothing in *Worthington*, *Krauss* or the combination of *Worthington* and *Krauss* teaches a tool including a non-pivoted jaw structure with a lower jaw portion having a substantially flat lower surface in the context of Claim 15.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 18. As a result, Claim 18 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 18 under § 103 be withdrawn and that Claim 18 be passed to allowance.

P. CLAIM 19

Claim 19 recites the tool of Claim 15, wherein the first member comprises a cutout in which a portion of the second member is pivotally positioned.

As Claim 19 depends from Claim 15, the arguments above with regard to the patentability of Claim 15 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action asserts that support arms 20 and 22 of *Worthington* teach a first member pivotally coupled to a non-pivoted jaw structure, comprising a cutout in which a portion of a second member is pivotally positioned. The support arms 20 and 22 are individual elements that bolt onto opposite sides of grip 18, bracket 16 and plate 14. The Office Action fails to give the term *cutout* its plain meaning. Merriam-Webster Online Dictionary, 10th Edition, defines *cutout* as "something cut out or off from something else; *also* : the space or hole left after cutting." The Appellant submits that support arms 20 and 22, bolted onto the sides of three other elements, do not teach a "space or

hole left after cutting,” into which a portion of another member may be pivotally positioned, as recited in Claim 19.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant’s invention recited in Claim 19. As a result, Claim 19 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 19 under § 103 be withdrawn and that Claim 19 be passed to allowance.

Q. CLAIM 20

Claim 20 recites the tool of Claim 15, comprising a cap coupled to the first member to laterally enclose the cutout.

As Claim 20 depends from Claim 15, the arguments above with regard to the patentability of Claim 15 over the combination of *Worthington* and *Krauss* apply here as well, and are incorporated herein by reference.

The Office Action asserts that *Worthington* “teaches a cap 32 coupled to the first member to laterally enclose the cutout.” *Office Action mailed February 28, 2006, page 6*. The Appellant submits that the Office Action mischaracterizes the teaching of *Worthington*. As argued with regard to Claim 19, support arms 20 and 22 are individual elements that bolt onto opposite sides of grip 18, bracket 16 and plate 14. Reference character 32 indicates the bolt that holds the support arms 20 and

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PATENT

22 onto plate 14 and form a pivot for plate 14. As such, *Worthington* does not teach a cap coupled to a first member to laterally enclose a cutout, as recited in Claim 20.

For these reasons, the Examiner has failed to establish that the *Worthington-Krauss* combination discloses the elements of the Appellant's invention recited in Claim 20. As a result, Claim 20 is patentable over the *Worthington* reference and over the *Krauss* reference, whether taken singly or in combination. Accordingly, the Appellant respectfully requests that the final rejection of Claim 20 under § 103 be withdrawn and that Claim 20 be passed to allowance.

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SUMMARY

The Appellant has demonstrated that the present invention as claimed is clearly distinguishable over the prior art cited of record. Therefore, the Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

The Appellant hereby authorizes the Commissioner to charge the Appeal Brief fee of \$500.00 and any additional fees (including any extension of time fees) or credit any overpayments to Munck Butrus Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS, P.C.

Date:

Aug 7, 2006



William A. Munck

Registration No. 39,308

P.O. Box 802432

Dallas, Texas 75380

(972) 628-3600 (main number)

(972) 628-3616 (fax)

E-mail: wmunck@munckbutrus.com

APPENDIX A

PENDING CLAIMS

1. A tool for lifting a pad, comprising:
a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the lower jaw portion having a sloped upper surface for slidably receiving a portion of the pad;
a first member pivotally coupled to the non-pivoted jaw structure; and
a second member pivotally coupled to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.
2. The tool of claim 1, wherein the upper jaw portion has an arcuate lower surface.
3. The tool of claim 2, wherein the non-pivoted jaw structure is arcuate.
4. The tool of claim 1, wherein the non-pivoted jaw structure comprises a first half coupled to a second half.
5. The tool of claim 1, wherein the lower jaw portion comprises a substantially flat lower surface.
6. The tool of claim 1, wherein the first member comprises a cutout in which a portion of the second member is pivotally positioned.
7. The tool of claim 1, wherein the surface of the second member comprises a textured surface.
8. A chemical mechanical polishing pad removal tool, comprising:
a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the upper jaw portion having an arcuate lower surface for contacting portions of an upper surface of the chemical mechanical polishing pad, the lower jaw portion having a sloped upper surface spaced below and opposite to the arcuate lower surface for slidably receiving a portion of the pad;
a first member pivotally coupled to the non-pivoted jaw structure; and
a second member pivotally coupled to the first member, the second member having a surface projecting below the arcuate lower surface of the upper jaw portion and being opposite to the sloped surface of the lower jaw portion, the second surface being operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.
9. The tool of claim 8, wherein the non-pivoted jaw structure is arcuate.

10. The tool of claim 8, wherein the non-pivoted jaw structure comprises a first half coupled to a second half.

11. The tool of claim 8, wherein the lower jaw portion comprises a substantially flat lower surface.

12. The tool of claim 8, wherein the first member comprises a cutout in which a portion of the second member is pivotally positioned.

13. The tool of claim 12, comprising a cap coupled to the first member to laterally enclose the cutout.

14. The tool of claim 8, wherein the surface of the second member comprises a textured surface.

15. A chemical mechanical polishing pad removal tool; comprising:
a non-pivoted jaw structure having an upper jaw portion and a lower jaw portion, the upper jaw portion having an arcuate lower surface for contacting portions of an upper surface of the chemical mechanical polishing pad, the lower jaw portion having a sloped upper surface spaced below and opposite to the arcuate lower surface for slidably receiving a portion of the pad, the sloped upper surface terminating at a lower end in a rounded end;
a handle pivotally coupled to the non-pivoted jaw structure; and
a member pivotally coupled to the handle, the member having a textured surface projecting below the arcuate lower surface of the upper jaw portion and being opposite to the sloped surface of the lower jaw portion, the textured surface being operable for clamping the portion of the pad against the sloped surface when the handle is pivoted upwards.

16. The pad removal tool of claim 15, wherein the non-pivoted jaw structure is arcuate.

17. The pad removal tool of claim 15, wherein the non-pivoted jaw structure comprises a first half coupled to a second half.

18. The pad removal tool of claim 15, wherein the lower jaw portion comprises a substantially flat lower surface.

19. The pad removal tool of claim 15, wherein the handle comprises a cutout in which a portion of the second member is pivotally positioned.

20. The tool of claim 15, comprising a cap coupled to the first member to laterally enclose the cutout.

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APPENDIX B

EVIDENCE APPENDIX

None

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APPENDIX C

RELATED PROCEEDINGS APPENDIX

None